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EXAMINER

MOONEYHAM, JANICE A

ART UNIT	PAPER NUMBER
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3629

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/617,156

Applicant(s)

METCALF, DARRELL

Examiner

Jan Mooneyham

Art Unit

3629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

This is in response to the applicant's communication filed on July 17, 2000.

Claims 1-39 are pending in this application.

An examination of this application reveals that applicant is unfamiliar with patent prosecution procedure. While an inventor may prosecute the application, lack of skill in this field usually acts as a liability in affording the maximum protection for the invention disclosed. Applicant is advised to secure the services of a registered patent attorney or agent to prosecute the application, since the value of a patent is largely dependent upon skilled preparation and prosecution. The Office cannot aid in selecting an attorney or agent.

Applicant is advised of the availability of the publication "Attorneys and Agents Registered to Practice Before the U.S. Patent and Trademark Office." This publication is for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Claim Objections

6.17 Numbering of Claims, 37 CFR 1.126

1. The numbering of claims is not accordance with 37 CFR 1.126, which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

The applicant has left out Claim 16 and has two Claim 32s.

Misnumbered claim been renumbered. Claim 17 is now Claim 16 and each claim thereafter is renumbered through the first Claim 32 which is now Claim 31. The second Claim 32 is maintained as Claim 32.

All hereinafter references to claims will be made to the corrected claim numbers.

2. The applicant also has a series of dependent claims that are not written in correct form.

A series of singular dependent claims is permissible in which a dependent claim refers to a preceding claim which, in turn, refers to another preceding claim.

A claim which depends from a dependent claim should not be separated by any claim which does not also depend from said dependent claim. It should be kept in mind that a dependent claim may refer to any preceding independent claim. In general, applicant's sequence will not be changed. See MPEP § 608.01(n).

The examiner has provided an example by rewriting dependent claim 2 to aid the applicant in crafting dependent claims:

Claim 2. The system of Claim 1 wherein the browser device consist of a handheld apparatus having wireless bi-directional connectivity to the Internet.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

- 3. Claim 22-24, 26, 27, 33-35 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.** The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The examiner is unclear as to how the secured retail-inventory environment of Claims 22-24, 26, 27, and 33-35 connects into the ordering, scheduling and reservation system of Claims 1-21, 25, 28-32, and 37-39 so as to enable one skilled in the art to make and use the invention.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

- 4. Claims 1-39 are rejected as failing to define the invention in the manner required by 35 U.S.C. 112, second paragraph.**

The claim(s) are narrative in form and replete with indefinite and functional or operational language. The structure which goes to make up the device must be clearly and positively specified. The structure must be organized and correlated in such a manner as to

present a complete operative device. The claim(s) must be in one sentence form only. **Note the format of the claims in the patent(s) cited.**

Claims 1-39 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

For example, in Claim 1, the applicant is claiming both the apparatus and the software for establishing a bi-directional communication link. These are two inventive concepts. The applicant may consider the following as an aid in re-writing the claim:

An electronic commerce and reservation system for establishing a bi-directional communication link between at least one customer and a large publicly accessible communications network comprising:

(The applicant would then need to set forth all of the structural elements. The applicant has set forth the software as an element under (e)).

Also, the phrase "such as the Internet" in Claim 1 renders the claim indefinite because it is unclear whether the limitations following the phrase are part of the claimed invention. See MPEP § 2173.05(d). Other indefinite language includes "for example," "or the like", or "including."

The applicant should go through each and every claim and present the claimed invention in a clear and positive way.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

5. Claim 38 is rejected under 35 U.S.C. 102(e) as being anticipated by Carter (US Patent No. 5, 926,798) (hereinafter referred to as Carter).

Referring to Claim 38:

Carter discloses a dual-commerce method enabling a customer to place online orders over a network such as the Internet including orders that are schedulable and reserveable and provide a customer scheduled excursion to at least one networked-venue which offers deliverables that the customer has ordered online, comprising the steps of:

- a.) establishing a bi-directional communication link between a customer browsing device and a large publicly accessible communications network such as the Internet, and at least one dual-commerce networked-venue represented at an Internet portal site (Fig. 1)
- b.) accessing a current databased selection of available online-choices, and available networked-venue-choices of goods, or services, or activities, or combinations thereof, available to the customer's) both online and from at least one physical location of said networked-venue(s) (Fig. 2 (202))
- c.) establishing a communication link with at least one networked computer(s) at said networked-venue(s) (Fig. 1)
- d.) accessing software and user interface for making choices pertaining to said current databased selection and for making at least one order from said choices online (Figs. 2, 3)
- e.) accessing customer ordering, reservation and scheduling means for making choices pertaining to said current databased selection and for making and recording at least one order from said choices online which is schedulable and reserveable according to a current condition of a chronological table of scheduled and available customer-events (Fig. 3 (302) col. 3, lines 53-65)
- f.) making at least one networked-venue order online, downloading an itinerary which when followed subsequently completes the order with the scheduled arrival and interaction of the customer at said physical location of said networked-venue(s) that is designated for expedited service, following the verification of the customer's identification and order by suitable identification and order verification means located at the physical location (col. 6, line 15 thru col. 7, line 35)

Art Unit: 3629

g) automatically updating current databased selection when each online order is made, and when each reserved and scheduled order is made and subsequently culminated from said networked-venue(s), and causing record-keeping and record-updating software routines to automatically record transaction details pertaining to said online order(s) and said scheduled and reserved order(s) and to update and report the availability of subsequent orderings, schedulings and reservations to said current databased selection when any order is completed (col. 6, line 15 thru col. 7, line 35, Fig. 2 (206), Fig. 3).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Art Unit: 3629

6. Claims 1-21, 25, 28-32, 37, and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fulton et al. (US Patent No. 6,182, 052) (hereinafter referred to as Fulton) in view of Chelliah et al. (US Patent No. 5, 710, 887) (hereinafter referred to as Chelliah).

Referring to Claim 1 and 39:

Fulton discloses an apparatus and software for establishing a bi-directional communication link between at least one customer and a large publicly accessible communications network such as the Internet, and for providing an online dual-commerce system, comprising:

- a.) a browser device having network-browsing software (col. 3, lines 40-54)
- b.) network connection means (col. 3, lines 40-54)
- c.) network-user identification and verification means (col. 2, lines 34-38, col. 4, lines 37-44)
- d.) at least one networked computer, software and user interface representing at least one networked-venue, said computer and software of a type which provides a current databased selection of available online-choices and available networked-venue-choices of goods, or services, or activities, or combinations thereof (Figs. 1-16, col. 1, lines 55-64, col. 2, lines 57-58),
- e.) software and user interface suitable for
 - i. providing communications with said networked computer(s), and for taking, recording, and reporting customer orders from choices provided by said current databased selection (Figs. 1-16)

Art Unit: 3629

ii. making at least one order from said available online-choices (Figs. 1-16)

iii. making at least one order from said available networked-venue choices whereby said order(s) is scheduled and reserved according to a current condition of a chronological table of scheduled and available customer-events (Figs. 1-16);

is downloadable in the form of an itinerary (tickets) by said customer; and

is subsequently culminated following the scheduled arrival of the ordering customer at a physical location of said networked-venue(s) that is designated for expedited service, following the verification of the customer's identification and order by suitable identification and order verification means located at the physical location(s) (Figs. 1-16)

iv. automated database-condition editing, monitoring and reporting which, is responsive to changes to said current databased selection when each online order is made, and when each online scheduled and reserved venue-order is made and subsequently culminated from said networked-venue(s); and which, causes record-keeping and record-updating software routines to automatically record transaction details pertaining to said online order(s) and said scheduled and reserved order(s) and to update and report the availability of subsequent orderings, schedulings, and reservations to said current databased selection when any order is completed (Figs. 1-16).

Fulton does not specifically disclose an automated database condition editing, monitoring and reporting in response to changes. However, Chelliah discloses an automated database condition editing, monitoring and reporting in response to changes (col. 3, lines 47-56, col. 14, line 63 thru col. 15, line 5).

Art Unit: 3629

It would have been obvious to one of ordinary skill in the art to incorporate into system of Fulton the editing capabilities of Chelliah since a shopper may elect not to purchase a selected item and the Purchase List must then be updated.

Referring to Claim 2:

Fulton further discloses the browser device of claim 1 consisting of a handheld apparatus having wireless bi-directional connectivity to the Internet (col. 4, line 5 thru col. 5, line 13).

Referring to Claim 3:

Fulton further discloses the browser device of claim 1 consisting of a computer and a modem (col. 4, line 66 thru col. 5, line 3).

Referring to Claim 4:

Chelliah further discloses the network browsing software of claim 1 consisting of a commercially available browser application (col. 1, lines 28-34).

Referring to Claim 5:

Chlliah further discloses he network browsing software of claim 1 consisting in the combination of a commercially available browser application and an Internet portal (col. 1, line 28-34).

Referring to Claim 6:

Chelliah further discloses said user interface of claim 1 wherein said interface comprises an Internet portal (col. 12, lines 1-9).

Referring to Claim 7:

Chelliah further discloses The network connection means of claim 1 consisting of an Internet connection made by an Internet Service Provider (col. 2, lines 11-34).

Referring to Claim 8:

Chelliah further discloses the identification and order verification means of claim 1 consisting of at least one commercially available customer identification and verification apparatus suitable for communication with said networked-computer (col. 12, lines 54-65, col. 4, lines 6-15).

Referring to Claim 9:

Chelliah further discloses the user interface and software suitable for establishing a communication link with said networked computer(s) of claim 1, further comprising at least one software routine for providing a customer with a printout record (col. 17, lines 31-44 – generating receipt)

Referring to Claim 10:

Chelliah further discloses the ordering means of claim 1 further comprising at least one software routine for automatically providing a networked-venue merchant with transaction details pertaining to his venue's sales (col. 25, line 16 – 68 Observation Subsystem)..

Referring to Claim 11:

Fulton further discloses the ordering, scheduling and reservation means of claim 1 further comprising at least one software routine for automatically providing a networked-venue merchant with transaction details pertaining to schedulings and reservations (Figs. 1, 15, 16).

Referring to Claim 12:

Chelliah further discloses the record-keeping and record-updating software of claim 1, further comprising at least one software routine for automatically providing a supplier of a networked-venue with transaction details pertaining to that venue's sales (col. 25, lines 16-68 – Observation Subsystem).

Referring to Claim 13:

Chellian further discloses the record-keeping and record-updating software of claim 1, further comprising at least one software routine for automatically calculating and deducting a sales commission based on the type of online order made (Figs. 11, Fig. 12A).

Referring to Claim 14:

Chelliah further discloses the ordering means of claim 1 further comprising at least one software routine for facilitating the delivery of online order(s) of goods to a customer (col. 3, lines 57-65).

Referring to Claim 15:

Fulton further discloses the networked-venue and networked computer and software of claim 1 further comprising software routines for the confirmation of customer orders (col. 5, lines 63-66)

Referring to Claim 16:

Chelliah further discloses the networked-venue and networked computer and software of claim 1 further comprising software routines for the verification of customer identification (Fig. 2 (112), col. 9, line 64 thru col. 10, lines 2).

Referring to Claim 17:

Chelliah further disclosesThe customer identification software of claim 16 further consisting of at least one commercially available networkable customer identification and verification apparatus ((Fig. 2 (112), col. 9, line 64 thru col. 10, lines 2, col. 8, lines 35-64).

Referring to Claim 18:

Chelliah further disclose the browser device of claim 1 consisting of at least one networked computer located at a physical networked-venue (col. 1, lines 5-12, col. 3, lines 5-16).

Referring to Claim 19:

Fulton further discloses the browser device of claim 1 consisting of at least one networked computer located at a facility which also incorporates a plurality of physical networked-venues (Figs. 1-16, col. 1, lines 10-17).

Referring to Claim 20:

Chelliah further discloses the dual-commerce apparatus of claim 1 further comprising software routines for entering and recording financial transaction card information and for reporting transactions to at least one financial transaction card vendor (col. 12, lines 56-65, col. 15, line 43 thru col. 17, line 30).

Referring to Claim 21:

Fulton further discloses the browser device of claim 1 consisting of at least one networked computer located at a physical networked-venue, said computer having a user interface that is similar in appearance and offers functionality similar to, an Automated Teller Machine (ATM) including means for reading, recording and reporting financial transaction card information (col. 1, lines 25-35).

Referring to Claim 25:

Chelliah further discloses the networked-venue of claim 1 further comprising a secured entertainment-content replication environment and retail-inventory wherein networked workstations are arranged to secure entertainment-content replication equipment and an inventory of merchandise in an optimized workstation system such that said equipment and the product of thereof, and said inventory, is consolidated in a space-saving manner and is out of reach to customers until purchased, and wherein each of said workstations:

- a.) comprises a networked-computer having connectivity to at least one network, and has a user interface to facilitate transactions and interactions (col. 1, lines 6-13),
- b.) has networked order-taking apparatus and software routines to facilitate user ordering and financial transactions pertaining to said product and said inventory and for reporting and recording said transactions (col. 12, line 28 thru col. 17, line 30),
- c.) has record-keeping and record-updating software routines to automatically record transaction details pertaining to any workstation order and to update and report the availability of merchandise, according to the order(s) made (col. 17, lines 31-44, col. 3, lines 46-55).

Referring to Claim 28:

Fulton further discloses the customer ordering means of claim 1 further comprising multimedia-playback software routines and at least one type of multimedia content for facilitating customer transactions with the playback of said multimedia content (col. 4, line 61 thru col. 5, line 13).

Referring to Claim 29:

Fulton further discloses the customer ordering means of claim 28 wherein the multimedia-playback means features multimedia content having meaning that is relevant to the context of customer transactions and interactions, and is synchronous thereto, and helps to facilitate order decisions (col. 4, line 61 thru col. 5, line 13).

Referring to Claim 30:

Chelliah further discloses the apparatus and software of claim 1 wherein said at least one computer consists of at least one networked server computer and software having a communication link with at least one client computer and software (col. 1, lines 5-13, col. 3, lines 5-18).

Referring to Claim 31:

Chelliah further discloses the dual-commerce system of claim 1 wherein said physical location of said networked-venue(s) designated for expedited service, is schedulable up to 100% flow rate of scheduled customers (see entire patent).

Art Unit: 3629

Referring to Claim 32:

Chelliah further discloses the dual-commerce system of claim 1 wherein said physical location of said networked-venue(s) designated for expedited service, is scalable to accommodate increased scheduled customer flow rates (see entire patent).

Referring to Claim 36:

Fulton further discloses the customer identification and order verification means of the networked-venue(s) of claim 1 further comprising bi-directional communication link with at least one wireless handheld device (col. 4, line 4 thru col. 5, line 3).

Referring to Claim 37:

Fulton further discloses the apparatus and software of claim 1 further consisting of means for a customer download said itinerary to a wireless device (col. 4, line 4 thru col. 5, line 3).

7. Claims 22-24, 26, 27, and 33-35 rejected under 35 U.S.C. 103(a) as being unpatentable over Fulton and Chelliah as applied to claim 1 above, and further in view of Rosenberg et al. (US Patent No. 6,418,416) (hereinafter referred to as Rosenberg).

Referring to Claim 22:

Neither Fulton nor Chelliah disclose an inventory management system. However, Rosenberg discloses an inventory management system and method comprising:
The networked venue of Claim 1 further comprising a secured retail inventory environment wherein networked workstations are arranged to secure an inventory of merchandise in an optimized workstation system such that said inventory is consolidated in a space-saving manner and is out of reach to customers until purchased (the examiner takes Official Notice that all e-commerce inventory is out of reach to customer until purchased), and wherein each of said 1 workstations:

- a.) comprises a networked computer having connectivity to at least one network, and has a user interface to facilitate transactions and interactions (Fig. 1),
- b.) has networked order-taking apparatus and software routines to facilitate user financial transactions and for reporting and recording said transactions (Fig. 4-18c)
- c.) has record-keeping and record-updating software routines to automatically record transaction details pertaining to any workstation order and to update and report the availability of merchandise, according to the order(s) made (Figs. 1-18c).

It would have been obvious to one of ordinary skill in the art to incorporate in the method and system of Fulton and Chelliah the teachings of Rosenberg since distributed networks such as the Internet facilitate the controlled dispensing, inventorying and re-ordering of supplies which can prevent the occurrence of inventory shortages, overstocking and pilferage.

Referring to Claim 23:

Rosenberg further discloses the optimized networked workstation system of claim 22 further comprising an automated merchandise pick-and-place system for secured retail inventory comprising:

- a.) at least one motion-control computer with motion-control software that is networked to the workstation system (col. 4, lines 10-20)
- b.) a multiplicity of securely located merchandise slots that are vertically aligned in columns and horizontally aligned in rows (Fig. 1, col. 3, lines 55-67)
- c.) at least one computer-accessible record of the vertical position and horizontal position of each said merchandise slots (col. 3, line 55 thru col. 6, line 30)
- d.) at least one updateable computer-accessible record of the vertical position and horizontal position of said merchandise slots and the type of merchandise stored therein (col. 3, line 55- col. 6, line 30)
- e.) at least one computer-accessible record of the vertical position and horizontal position of a receiving end of each workstation delivery chute located adjacent to each workstation (col. 3, line 55 thru col. 6, line 30)

f.) a motion controller interface coupled between said motion-control computer(s) and electro-mechanical actuators (col. 4, lines 10-20)

g.) at least one motion-controllable member that is positionable by said actuator(s) in a horizontal axis having a pick-and-place robotic apparatus operative from an end thereof that is positionable in a vertical axis by said actuator(s) (col. 3, line 55 thru col. 6, line 30)

h.) an electro-mechanically actuated merchandise gripping means that is positionable to securely grip merchandise and move it in and out of any merchandise slot and to also move it into a receiving end of any workstation delivery chute the combination of which is responsive to user input with, and control signals from, at least one computer that is networked to the workstation system to provide (Fig. 1 (125), col. 4, lines 28-34, col. 6, line 30 – Functional Description):

- i. stocking, retrieval and re-stocking of merchandise; and
- ii. automated delivery of said merchandise to a user's workstation chute by accessing at least one of said computer-storable record and communicating the record data to said motion-control computer for the computer-controlled positioning of said member(s), said pick-and-place robotic apparatus, and said gripping means
- iii. merchant input from a networked computer for automated pick-and-place control of inventory.

Rosenberg does not disclose a gripping means. However, it would have been obvious to one of ordinary skill in the art to incorporate a gripping means into the method and system of

Art Unit: 3629

Rosenberg since this would provide a way for the items or articles to be retrieved once they are ordered.

Referring to Claim 24:

Rosenberg further discloses the automated merchandise pick-and-place system for secured retail inventory of Claim 23 further comprising rapid inventorying apparatus comprising at least one emitter-detector light sensing means that is positionable by computer motion-control to sweep in a controlled path past merchandise slots and interpret the difference in light reflectivity of vacant container slots and container slots occupied with merchandise, and rapidly scans slot-empty states or slot-occupied states and records, maintains and reports all state-conditions of the inventory to said record-keeping and record-updating software (col. 4, lines 10-4).

Referring to Claim 26:

Rosenberg further discloses the workstation system of claim 22 further comprising at least one ATM style workstation which adjoins an exterior wall of the networked-venue and provides workstation functionality (Fig. 1 (120), Col. 4, lines 51-64).

Referring to Claim 27:

Rosenberg further discloses the workstation system of claim 22 wherein each of said workstations has hi-speed connectivity and provides interactivity with the workstations of at least one other workstation system (Fig. 1, col. 4, line 65 thru col. 6, line 30).

Referring to Claim 33:

Rosenberg discloses the optimized networked workstation system of claim 22 wherein each of said workstations provide software and hardware means for browsing, previewing, ordering, uploading, and keeping a computer-accessible record of order transaction details pertaining to orders for, and uploadings of, medialess digitally-recorded entertainment-content such as MP3 (Mpeg 3) files that are ordered and received by customers having networked communication with said system (Figs. 1-18c, col. 4, line 65 thru col. 6, line 30).

Referring to Claim 34:

Rosenberg further discloses the networked communication of claim 33 consisting in bi-directional communication between said workstation(s) and at least one wireless handheld device suitable for receiving digitally-recorded files (col. 4, lines 51-64).

Referring to Claim 35:

Rosenberg further discloses the networked communication of claim 33 consisting in bi-directional communication between said workstation(s) and at least one coupled handheld device suitable for receiving digitally-recorded files (Fig. 1-18c), col. 4, line 65 thru col. 6, line 30).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

IBM, Corp. PCT WO 99/50771 discloses a method and system for transacting commercial over the Internet with an inventory and financial database.

Book Online Reservations and Plan Fly Drive Itineraries with Rand McNally's TripMaker Deluxe and StreetFinder Deluxe – PR Newswire Association, 1999.

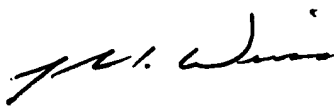
www.genmagic.com form the Internet Archive Wayback Machine of date January 23, 1998.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jan Mooneyham whose telephone number is (703) 305-8554. The examiner can normally be reached on Monday through Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on (703) 308-2702. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-3691 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

JAM
May 31, 2003


JOHN G. WEISS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600

It appears that the applicant in this application is a *pro se* applicant (an inventor filing the application alone without the benefit of a Patent Attorney or Agent). Applicant may not be aware of the preferred methods of ensuring timely filing of responses to communications from the Office and may wish to consider using the Certificate of Mailing or the Certificate of Transmission procedures outlined below.

CERTIFICATE OF MAILING

To ensure that the Applicant's mailed response is considered timely filed, it is advisable to include a "certificate of mailing" on at least one page (preferably on the first page) of the response. This "certificate" should consist of the following statement:

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: "Commissioner of Patents and Trademarks, Washington, D.C. 20231" on (date).

(Typed or printed name of the person signing this certificate)

(signature)

CERTIFICATE OF TRANSMISSION

Alternatively, if applicant wishes to respond by facsimile rather than by mail, another method to ensure that the Applicant's response is considered timely filed, is to include a "certificate of transmission" on at least one page (preferably on the first page) of the response. This method should be used by foreign applicants without access to the U.S. Postal Service. This "certificate" should consist of the following statement:

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703)____-____ on (date).

(Typed or printed name of the person signing this certificate)

(signature)

These "Certificates" may appear anywhere on the page, and may be handwritten or typed. They must be signed, and the date must be the actual date on which it is mailed or transmitted. For the purpose of calculating extensions of time, the date shown on the certificate will be construed as the date on which the paper was received by the Office, regardless of the date the U.S. Postal Service actually delivers the response, or the fax is "date-stamped" in. In this way, postal or transmission delays do not affect the extension-of-time fee.

In the event that a communication is not received by the Office, applicant's submission of a copy of the previously mailed or transmitted correspondence showing the **originally** signed Certificate of Mailing or Transmission statement thereon, along with a statement from the person signing the statement which attests to the timely mailing or transmitting of the correspondence, would be sufficient evidence to entitle the applicant to the mailing or transmission date of the correspondence as listed on the Certificate of Mailing or Transmission, respectively.

NOTICE TO APPLICANT: In the case of lost or late responses the use of other "receipt producing" forms of mailing a correspondence to the Patent Office, such as Certified Mail, or a private shipper such as FedEx, **WILL NOT** result in the applicant getting the benefit of the mailing date on such receipts. These receipts are not considered to be acceptable evidence since there is nothing to "tie-in" the receipt with the particular document allegedly submitted.